

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 84 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

( No. 1 to 5 NO)

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RAZIABANU ISMAIL SHEIKH

Versus

GULABBIBI WD/O GABURUDDIN LALMIYA

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Appearance:

MR MA KHARADI for Petitioner

MR SANDIP C SHAH for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 14/03/97

ORAL JUDGEMENT

The Appeal is admitted and is taken for final hearing under the consent of learned counsels for the parties.

When the orders under challenge pronounced by the learned Judge, City Civil Court No.21 Ahmedabad, dated January 20, 1997 are perused, it is abundantly clear that

the Notice of Motion came to be allowed in part and the defendants are directed "not to transfer, assign, sale or gift away" the land situated at Motera. It therefore appears that the present appellant Raziabanu Shaikh stands duly protected qua the said land situated at Motera. Nothing requires to be said by me in this respect.

Learned counsel Mr. Kharadi for the appellant urges that, the appellant stays at first floor portion of a house property bearing Municipal Census No. 768 situated at Changispole at Dariapur. It appears that the appellant/plaintiff stays there since last about more than ten years. She requires to be protected qua her possession of this property also, till the disposal of the suit. I order accordingly.

Lastly there is the question regarding two partnership business; one is known as Sahjivan Sanitary Stores, while the other one is known as Gujarat Engineering Works. There has been a debate in respect of these two business because learned counsel Mr. Kharadi says that the plaintiff would be entitled to some share or interest in these business, while learned counsel Mr. Sandip Shah on other hand says that this proposition is without any basis whatsoever, either in facts or in law. I do not express any opinion on this question and direct that the said shall have to be decided by the Court below at the time of the trial of the Suit.

Any how, for safeguarding the interest of the appellant, it is hereby ordered and directed that the respondents shall present yearly profit & loss account before the Court below in respect of the above said two business till the trial is concluded.

The above said directions should not be taken as I expressing any opinion on the rival contentions of the parties. The contention in this respect shall also have to be decided by the Court below, upon the appreciation of the evidence and according to law and on merits.

The present appeal stands disposed of with the above said orders. The impugned orders shall stand modified to the above said extent only. No order as to cost.

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